

The House Committee on Ways and Means offers the following substitute to HB 938:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
2 so as to provide that a franchise fee shall be deemed to be a franchise tax; to provide that a
3 municipality shall not collect a franchise tax for the operation of cable television systems
4 from residents in unincorporated areas; to provide for two public hearings relating to
5 franchise taxes; to provide for certain information on itemized bills; to provide that franchise
6 taxes may not be included in the base rates of a public utility; to provide that a municipality
7 shall not collect a franchise tax from public utilities from residents in unincorporated areas;
8 to provide that a franchise tax shall not be levied on or computed based on certain revenues;
9 to provide for related matters; to provide for an effective date; to repeal conflicting laws; and
10 for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
14 in Code Section 36-18-3, relating to restriction on authority of counties and municipalities
15 to regulate cable television systems, as follows:

16 "36-18-3.

17 A county shall neither grant a franchise nor collect a franchise ~~fee~~ tax for the operation of
18 cable television systems within the corporate limits of any municipality except by
19 agreement with the municipality. A municipality shall neither grant a franchise nor collect
20 a franchise ~~fee~~ tax for the operation of cable television systems within the unincorporated
21 area of a county ~~except by agreement with the county.~~"

22 **SECTION 2.**

23 Said title is further amended by revising paragraph (7) of Code Section 36-34-2, relating to
24 general powers regarding administration of municipal government, as follows:

H. B. 938 (SUB)

"(7)(A) The power to grant franchises to or make contracts with railroads, street railways, or urban transportation companies, electric light or power companies, gas companies, steam-heat companies, telephone and telegraph companies, water companies, and other public utilities for the use and occupancy of the streets of the city, for the purpose of rendering utility services, upon such conditions and for such time as the governing authority of the municipal corporation may deem wise and subject to the Constitution and the general laws of this state. Any fee, franchise fee, or other similar monetary consideration of any name collected from or passed on to customers of public utilities or companies as a result of franchise agreements or contracts shall be deemed to be a franchise tax. Between July 1, 2008, and September 30, 2008, a municipality that is assessing a franchise tax as of June 30, 2008, shall conduct at least two public hearings held at least two weeks apart. Notice of the time, place, and date of each hearing shall be published in a newspaper of general circulation within the jurisdiction of the municipality once a week for the two weeks preceding the week in which each hearing is to be held. Further, prior to imposing a new franchise tax or increasing a franchise tax on and after July 1, 2008, a municipality shall conduct at least two public hearings in accordance with the provisions of this paragraph.

(B)(i) The amount of ~~fees~~ taxes collected from municipal customers of public utilities or companies as a result of franchise agreements or contracts authorized by this paragraph shall be itemized on bills or invoices transmitted to such municipal customers for utility services, shall include a statement that the charge is a tax, and shall clearly indicate the municipality which will receive the tax. ~~The requirements of this subparagraph shall not apply to fees that are included in the system-wide charges or~~

(ii) No franchise tax or portion thereof shall be included in the base rates of a public utility or company subject to a franchise agreement or contract.

(iii) Any franchise tax authorized pursuant to this paragraph shall not be levied on or computed based on any revenues from customers of an electric light or power company if such customers are engaged in the manufacture or processing of tangible personal property primarily for resale, nor shall such customers be charged a franchise tax or portion thereof.

(C) A municipality shall neither grant a franchise nor collect a franchise tax for the operation of public utilities within the unincorporated area of a county."

SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

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- SECTION 4.
- All laws and parts of laws in conflict with this Act are repealed.